



Periodic Review / Retain Regulation Agency Background Document

Agency name	Board for Professional Soil Scientists and Wetland Professionals
Virginia Administrative Code (VAC) citation	18VAC145-30
Regulation title	Regulations Governing Certified Professional Wetland Delineators
Document preparation date	January 19, 2012

This form is used when the agency has done a periodic review of a regulation and plans to retain the regulation without change. This information is required pursuant to Executive Orders 14 (2010) and 58 (1999).

Legal basis

Please identify the state and/or federal legal authority for the regulation, including (1) the most relevant law and/or regulation, and (2) promulgating entity, i.e., agency, board, or person.

(1) Relevant Laws

[§ 54.1-201.5](#) of the *Code of Virginia* states that the Board has the power and duty "To promulgate regulations in accordance with the Administrative Process Act (§ [2.2-4000](#) et seq.) necessary to assure continued competency, to prevent deceptive or misleading practices by practitioners and to effectively administer the regulatory system administered by the regulatory board. The regulations shall not be in conflict with the purposes and intent of this chapter or of Chapters 1 (§ [54.1-100](#) et seq.) and 3 (§ [54.1-300](#) et seq.) of this title.

Executive Order 14 (2010) states, in part, "Each existing regulation in the state shall be reviewed at least once every four years by the promulgating agency unless specifically exempted from periodic review by the Governor."

(2) The promulgating entity is the Board for Professional Soil Scientists and Wetland Professionals.

Alternatives

Please describe all viable alternatives for achieving the purpose of the existing regulation that have been considered as part of the periodic review process. Include an explanation of why such alternatives were

rejected and why this regulation is the least burdensome alternative available for achieving the purpose of the regulation.

No viable alternative has been identified or is necessary. The regulations establish minimum requirements for the practice of wetland delineation by certified individuals. However, because the regulations establish requirements for a certificate program (not a licensure program), the regulations do not affect the practice of wetland delineation by non-certified individuals.

Public comment

Please summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

No public comments were received. No informal advisory committee was formed.

Effectiveness

Please indicate whether the regulation meets the criteria set out in Executive Order 14 (2010), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.

The regulations are consistent with the criteria of Executive Order 14 (2010) in that they are necessary for the establishment of minimum standards for certification but do not preclude the practice of wetland delineation by non-certified individuals.

Result

Please state that the agency is recommending that the regulation should stay in effect without change.

The agency recommends that the regulations remain in effect and unchanged.

Small business impact

In order to minimize the economic impact of regulations on small business, please include, pursuant to § 2.2-4007.1 E and F, a discussion of the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, include a discussion of the agency's determination whether the regulation should be amended or repealed, consistent with the stated objectives of applicable law, to minimize the economic impact of regulations on small businesses.

1. The regulations establish minimum requirements for the practice of wetland delineation by certified individuals. However, because the regulations establish requirements for a certificate program (not a licensure program), the regulations do not affect the practice of wetland delineation by non-certified individuals.

2. No public comments were received.

3. The regulations are not complex in nature.

4. The regulations do not overlap, duplicate, or conflict with federal or state laws or regulation.

5. The regulations were last reviewed in 2007 to conform them to HB 2839 of the 2007 Session of the Virginia General Assembly.

No small business impact has been identified.

Family impact

Please provide an analysis of the regulation's impact on the institution of the family and family stability.

No family impact has been identified.